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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/630,562 | 07/30/2003 | Scott Smith | 760-12 DIV/CON | 8643 |
| 23869 | 7590 | 01/10/2008 | EXAMINER | |
| HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791 | | | GANESAN, SUBA | |
| ART UNIT | | PAPER NUMBER | | |
| 3774 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
| 01/10/2008 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/630,562 | SMITH, SCOTT | |
| | Examiner | Art Unit | |
| | Suba Ganesan | 3774 | |

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 August 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 2,4,5 and 9-11 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,3,6-8,12-13 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's terminal disclaimer filed 8/8/2007 overcomes the double patenting rejections of claims 1, 3, 6-8, and 12-13.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 6-8, and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leopold et al. (U.S. Pat. No.: 6,352,561) in view of Lau et al. (U.S. Pat. No.: 6,165,210).

4. Leopold discloses a stent graft composite device formed from a flat preformed planar strip and stent assembly (see fig. 3) comprising an elongate preformed non-textile planar strip 128 of polymeric graft material (col. 11 lines 13-44) having a first exterior surface and a second opposed luminal surface (see fig. 3). A stent 126 is attached to the luminal surface of the strip, and the strip assembly is helically wound into a continuous tubular structure (col. 9 lines 25-27). Leopold further discloses an embodiment in which successive helical windings do not overlap (fig. 6B). The polymeric graft material includes fluoropolymers and ePTFE (col. 11 lines 13-44). The

tubular structure has a generally circular cross section (see fig. 3 and 4A). The stent comprises stent wire (see fig. 3).

5. However, the stent graft assembly of Leopold lacks a planar stent made of planar wire or ribbon. Lau teaches a planar stent, which the examiner considers to be equivalent to a planar ribbon stent (figs. 6,7,9,10). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to include a planar stent, as taught by Lau, with the stent-graft composite of Leopold, the motivation to combine being: providing a stent with a greater surface area to promote attachment to the helically wound graft material.

6. Examiner considers such a modification to be within the skill of an ordinary worker in the art, since in addition to the motivation provided above, the resulting stent-graft composite of Leopold and Lau would constitute a combination of prior art elements, combinable using known methods and yielding predictable results.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suba Ganesan whose telephone number is 571-272-3243. The examiner can normally be reached on M-F 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on 571-272-4754. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SDG 1/3/2007

/William H. Matthews/
Primary Examiner AU 3774